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REPORT
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ESTABLISHING A RESERVATION FOR THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON, AND FOR OTHER PURPOSES

AUGUST 10, 1988.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 4143]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 4143) having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The legislation will establish a 9,800 acre reservation for the Confederated Tribes of the Grand Ronde Community of Oregon.

BACKGROUND

The Confederated Tribes of the Grand Ronde Community and their ancestors have resided in the Willamette Valley of Oregon for over two thousand years. Ancestors of many present day members of the Grand Ronde Confederated Tribes came from the Nehalem, Tillamook, Nestucca, and Salmon River people of the Pacific Coast just south of the Columbia River. Others came from the Umpqua and Rogue River bands of southwestern Oregon and northwestern California.

Between 1853 and 1855, the descendants of these prehistoric people signed seven treaties with the United States government, all ratified by the United States Senate. These treaties extinguished aboriginal title to all lands in present day Oregon located between the Pacific Coast and the Cascade Mountains. In return, President James Buchanan signed an Executive order to establish the Grand Ronde Reservation for members of the fourteen Western Oregon

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tribes who signed the treaties. The Grand Ronde Reservation originally consisted of 69,120 acres of land.

During the 1890s the Secretary of the Interior allotted most of the Grand Ronde Reservation to individual Indians. Over 33,000 acres of allotted land passed into non-Indian ownership in the aftermath of the General Allotment Act. In 1901, an additional 25,791 acres of the Grand Ronde Reservation was declared surplus and sold for $28,500.

Following enactment of the Indian Reorganization Act of 1934, the Grand Ronde Confederated Tribes adopted a constitution and charter of incorporation. Under the provisions of the charter, the Grand Ronde purchased approximately 600 acres to provide homes and farms for reservation residents.

In 1954, Congress enacted an Act which terminated Federal recognition of the Grand Ronde Confederated Tribes. As a result of the 1954 Termination Act, all tribal land and other property was disposed of and the government-to-government relationship between the Grand Ronde Tribes and the United States was severed. Grand Ronde tribal members were no longer eligible for programs administered by the Bureau of Indian Affairs and the Indian Health Service. As a result of termination, the Confederated Tribes of the Grand Ronde Indian Community were stripped of their Federal status and associated benefits and dispossessed of their tribal lands.

On November 22, 1983, Congress enacted Public Law 98–165, the Grand Ronde Restoration Act. The Act restored Federal recognition to the Confederated Tribes of the Grand Ronde Reservation. Today, the Grand Ronde Tribes continue to reside in Grand Ronde, Oregon, the site of their former reservation. As of November, 1985, the Confederated Tribes had an enrollment of about 1,700 members.

Section 8 of the Grande Ronde Restoration Act directed the Secretary of the Interior to enter into negotiations with the tribe to develop a plan for the establishment of a reservation. The plan was supposed to have been submitted to the Congress within two years of the date of enactment of Public Law 98–165. The plan was developed pursuant to a contract between the tribe and the Bureau of Indian Affairs and was submitted to the Secretary of the Interior on November 8, 1985. Following approval of the plan by the tribe, the Secretary was to submit the plan to the Congress. However, to date, the plan has not received final Secretarial approval and therefore has not been submitted to the Congress.

Statement of Policy

In recent years the Committee has considered several bills to reserve Federal land to be held in trust for Indian tribes. The Committee considered each bill on a case by case basis and has evaluated each one on its merits—both in terms of the efficacy of the claim as well as in terms of the best use of a public resource. Here, the Committee has agreed that the best use of the land in question is to provide a sound economic base for the Grand Ronde Indian Community.

The Committee's decision is not unlike a decision to reserve Federal land for other purposes such as to establish a wilderness area, a national park, a national scenic area, or a wildlife refuge. The decision is similar to a determination to develop public land, thus denying its use for non-development purposes, such as a decision to harvest timber or develop recreational facilities.

Committee support for establishing the Grand Ronde Reservation is not based on any colorable claim of right the Grand Ronde Indians may have to the land. The Committee has recommended passage of H.R. 4143 because the Committee concurs that establishment of the Grand Ronde Reservation is the most appropriate use in this instance of the public lands and is necessary to meet the nation's moral commitment to provide a land base for the Confederated Tribes of the Grand Ronde Indian Community.

With the enactment of this Act, the Committee expects the Confederated Tribes of the Grand Ronde Community to be deemed eligible under the Indian Tribal Government Tax Status Act and such other Acts applicable to reservation based Indian tribes.

Legislative History

H.R. 4143 was introduced March 14, 1988 by Congressman Les AuCoin and referred to the House Committee on Interior and Insular Affairs. A hearing was held by the Interior and Insular Affairs Committee on April 12, 1988. The bill was ordered reported on May 11, 1988 and it passed the House of Representatives on June 20, 1988. On June 21, 1988, H.R. 4143 was received in the Senate and referred to the Select Committee on Indian Affairs. The bill was ordered reported favorably on July 21, 1988.

Committee Recommendation and Tabulation of Vote

On July 29, 1988, the Select Committee on Indian Affairs, in open business session, by a unanimous vote of a quorum present, adopted H.R. 4143 and ordered the bill favorably reported without amendment.

Section-by-Section Analysis

SECTION 1

Subsection (a) provides that subject to valid existing rights, all right and title of the United States in the land described in subsection (c) is hereby declared to be held in trust for the benefit of the Confederated Tribes of the Grand Ronde Community of Oregon and shall be subject to the Indian Reorganization Act of June 18, 1934.

Subsection (b) provides that beginning on the date of enactment of this Act, all receipts from the lands described in subsection (c) shall accrue to the Confederated Tribes of the Grand Ronde Community instead of to the United States.

Subsection (c) describes the lands referred to in subsection (a). These lands consist of approximately 9,811 acres of Federal land. Legal title to the land will remain in the United States, with equitable title vesting in the Confederated Tribes of the Grand Ronde Community of Oregon. Consequently, the Federal lands reserved for the Grand Ronde Indian Community by this legislation will

remain in Federal ownership and the transfer of land will have no budgetary impact.

SECTION 2

This section provides that the establishment of the Grand Ronde Reservation shall not grant nor restore to the Confederated Tribes nor to any of its individual tribal members, any hunting, fishing, or trapping rights beyond the rights which are declared and set forth in the January 12, 1987 judgment of the United States District Court for the District of Oregon in *Confederated Tribes of the Grand Ronde Community of Oregon* v. *Oregon.* This section further states that the rights as declared in the court's final judgment shall constitute the exclusive and final determination of all tribal rights to hunt, fish, and trap that the Confederated Tribes or its members possess.

SECTION 3

This section provides that the State of Oregon will retain criminal and civil jurisdiction over the reservation in accordance with section 1162 of title 18, United States Code and section 1360 of title 28, United States Code. Since the Grand Ronde reservation is within Oregon, which has assumed jurisdiction over some reservations pursuant to Public Law 83-280, this section establishes the same jurisdictional arrangement on the Grand Ronde reservation as on other reservations within Oregon that are subject to Public Law 83-280.

SECTION 4

Subsection (a) provides that the lands described in subsection (b) shall hereafter be managed under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.) (Oregon & California Railroad grant lands). Beginning with enactment of this Act, all funds received as a result of the use of these lands will be deposited in the treasury of the United States in the "Oregon and California land-grant fund" and be distributed as provided in such Act. This subsection, however, will not apply to receipts from timber which was removed from such lands before the date of enactment of this Act.

Subsection (b) describes the lands referred to in subsection (a). These lands consist of approximately 12,035 acres.

SECTION 5

This section provides that the March 10, 1988 memorandum of agreement entered into between the Confederated Tribes and the Department of the Interior, relating to the disposition of timber resources on the reservation and the use of funds for economic development purposes, shall apply for a period of twenty years beginning on the date of enactment of this Act. The memorandum prohibits the export of raw logs from the reservation for 20 years following enactment.

SECTION 6

This section provides that during the twenty year period mentioned in section 5, the Confederated Tribes shall establish and

maintain a separate account dedicated to economic development purposes and shall place in that account an amount equal to 30 percent of the income from tribal timber resources received into the tribe's Federal trust funds account. The section provides that the tribe may expend funds from that separate account for economic development purposes.

COST AND BUDGET ACT COMPLIANCE

The cost analysis prepared by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 1988.

Hon. DANIEL K. INOUYE
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4143, an act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes, as ordered reported by the Senate Select Committee on Indian Affairs, July 29, 1988.

H.R. 4143 would require 9,811 acres of land in Willamette Meridian, Oregon, to be held in trust by the federal government for the Confederated Tribes of the Grand Ronde Community of Oregon as their reservation. All receipts from such lands, except receipts from timber removed before enactment, would accrue to the tribes. The legislation also requires 12,035 acres of other land to be treated as revested Oregon and California Railroad grant lands for purposes of timber management and distribution of timber receipts.

The Department of the Interior (DOI) estimates that the land to be conveyed by H.R. 4143 has an appraised value of approximately $39 million. Based on information from DOI, CBO estimates that the impact of this act on the Federal budget would be the loss of $1 million to $2 million per year in timber receipts, beginning in fiscal year 1989. The Federal Government would give up its 50 percent share of timber receipts ($500,000 to $1 million per year) from the land transferred to the Grand Ronde Community. The Federal Government would lose a similar amount of receipts on the 12,035 acres to be treated as revested Oregon and California Railroad grant lands, because it currently receive 95 percent of the timber receipts on that land and would receive only 50 percent under H.R. 4143.

If this legislation were enacted, we estimate that the State of Oregon would lose its 5 percent share, or $50,000 to $100,000 per year, of the timber receipts on the land that would be converted to revested Oregon and California Railroad Grant Lands. The county in which the lands are located would not be significantly affected.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

Regulatory Impact Statement

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 4143 will have no regulatory or paperwork impact.

Executive Communications

The Committee has received no executive correspondence on H.R. 4143. The Committee on Interior and Insular Affairs, House of Representatives, received the following executive correspondence, along with the legislative report received by the Committee from the Department of the Interior, a subsequent letter from the Department withdrawing the report. Finally, the Administration provided the following Administration Policy Statement.

U.S Department of the Interior,
Office of the Secretary,
Washington, DC, May 10, 1988.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on H.R. 4143, a bill "To establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes."

We support enactment of H.R. 4143 if amended as suggested herein.

Section 1 of H.R. 4143 provides for the establishment of a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon. The reservation will consist of approximately 9,811 acres located in Oregon and shall not be subject to valid existing rights, including, but not limited to, all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of enactment of this bill. This section also provides that the land shall be held in trust for the tribe and be subject to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461, et seq.).

Section 1 also provides that, beginning on the date of enactment, all receipts from the lands to be transferred shall accrue to the Confederated Tribes of the Grand Ronde Community. This does not apply to receipts from timber removed from such land before the date of enactment.

Section 2 provides that the establishment of the reservation and the addition of lands to the reservation after the enactment of this Act shall not grant or restore to the tribe or its members any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled "Confederated Tribes of the Grand Ronde Community of Oregon against the State of Oregon" which was entered on January 12, 1987.

Section 3 provides that the State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over individuals on the reservation.

Section 4 provides that approximately 12,035 acres of Federal land which is presently managed by the Bureau of Land Management shall be managed under the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon," approved August 28, 1937 (43 U.S.C. 1181(a), et seq.). Any moneys received from or on account of these lands shall be deposited in the Treasury of the United States in the special fund designated "Oregon and California land-grant fund" and shall be distributed as provided in the Act. However, this does not apply to receipts from timber removed from such lands before the date of enactment of this Act.

Section 5 appears to ratify the memorandum of agreement (MOU) between the Confederated Tribes of the Grand Ronde Community of Oregon and the Department of the Interior, dated March 10, 1988 (copy attached), relating to the disposition of timber resources on the reservation and the use of funds for economic development purposes and provides that it shall apply for a period of 20 years beginning on the date of enactment of this Act.

Section 6 authorizes the Confederated Tribes of the Grand Ronde Community to utilize 30 percent of annual tribal income, earned from tribal timber resources, which is received into the tribes' Federal trust funds account for economic development purposes.

The original Grand Ronde Reservation was established by Executive Order on June 30, 1857. The Executive Order set aside lands for certain Oregon Indian tribes party to the treaties of January 20, 1855, and December 31, 1885, with the United States. This 69,120-acre reservation was diminished (through cession or alienation by sales, patents in fee, and certificates of competency) to 597.49 acres by 1954 of which 536.99 had been acquired under the Indian Reorganization Act of 1934. Most of the lands were lost in the 1890's during the general allotment period. After the Confederated Tribes of the Grand Ronde was terminated along with the other western Oregon tribes by the Act of August 13, 1954, 253 of the reservation's remaining acres were sold for approximately $30,000, with a per capita distribution of $35, and 344 acres were transferred to a private trustee for subsequent disposition.

After termination of the tribe, the economic condition of the tribal members deteriorated. High school dropout rates, high incidence of alcoholism among tribal members and health problems requiring medical care, and family dependency on welfare as the sole source of income were all concerns. Unemployment rates were high among the tribal member due to the lack of employment opportunities in the Grand Ronde area.

The Grand Ronde Restoration Act of November 22, 1983 (Public Law 98–165; 97 Stat. 10964; 25 U.S.C. 713 et seq.) restored Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon and made the tribe and its members again eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Section 8 of the 1983 Restoration Act (the Act) provides for the establishment of a reser-

vation for the tribe through the enactment of subsequent legislation. This section also requires the Secretary of the Interior to develop and, after approval by the tribal governing body, submit to the Congress a plan for the establishment of the reservation.

Because the Act requires tribal approval of the Grand Ronde Reservation Plan (plan), we provided financial assistance to the tribe for development of the proposed plan. A similar course of action was successfully used for similar plan requirements for the Siletz Tribe (25 U.S.C. 711(e) and Public Law 96–340).

The interim tribal council for Grand Ronde, established under section 5 of the Act, contracted with Cooper Consultants, Inc. (a 100 percent Indian-owned firm), to assist in developing the proposed.

In conclusion, we have worked closely with the Confederated Tribes of the Grand Ronde to assist in selecting lands for reservation that will enhance the tribes' efforts to gain economic self-sufficiency. H.R. 4143, as introduced, was developed in compromise with all impacted parties. The interests of the tribes and the citizens of the area are well served and protected in this bill.

We note one technical problem with the bill. We recommend that the reference to the MOA in section 5 be deleted from the legislation and the provisions of the MOA be incorporated in the legislation instead. Without this proposed amendment, we have serious questions concerning the enforceability of the MOA.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROSS O. SWIMMER,
Assistant Secretary.

Enclosure.

MEMORANDUM OF AGREEMENT BETWEEN THE BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF INTERIOR AND THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

This agreement is made and entered into this tenth day of March, 1988, by and between the Secretary of Interior, acting through the Bureau of Indian Affairs (hereinafter the Bureau), and the Confederated Tribes of the Grand Ronde Community of Oregon (hereinafter the Tribe), pursuant to the authorize vested in the Tribe by its Constitution and By-Laws and the Bureau by 25 USC Sections 2 and 9; and

PURPOSE

This Agreement is made for the purpose of clarifying the management and harvesting of timber from the Grand Ronde Indian Reservation.

RECITALS

Whereas, the Bureau has statutory and regulatory responsibilities with respect to the management of timber resources on Indian reservations, including sustained yield management of forests, and the sale of timber and investment of timber funds on behalf of the Tribes; and

Whereas, the Tribe in accordance with the Grand Ronde Restoration Act, Public Law 98–165, developed a Grand Ronde Reservation Plan and submitted that plan to the Secretary of Interior; and

Whereas, the Secretary and Tribe have entered into consultation with State and local officials as called for in Public Law 98–165; and

Whereas, such consultations have raised concerns by local officials and local timber industry representatives that an even flow of unprocessed timber continue to be made available to help support the domestic timber industry; and

Whereas, the Bureau and Tribe wish to alleviate these concerns so that a spirit of cooperation will exist between the Bureau, Tribe, local governments, and industries; and so that tribal self-sufficiency can be addressed by moving forward with the Reservation Plan; and

Whereas, the Tribe wishes to confirm its commitment to the economies of the west valley area, particularly the business community, schools and governments; Now Therefore;

AGREEMENT

It is hereby agreed as follows:

1. The Bureau and Tribe will sell the unprocessed sawtimber off the Reservation under the principles of sustained yield management; and,

2. The Tribe, by Resolution No. 162–86, has adopted and the Bureau hereby adopts the harvest scheduling and forest practices set forth in the Bureau of Land Management, "Westside Salem 1983 Management Framework Plan" to assure continuity in timber management practices.

3. All unprocessed sawtimber to be harvested from the Reservation shall be sold by public auction to the highest bidder.

4. In the first advertisement of any proposed timber sale, appraisals of unprocessed sawtimber will be based solely upon the domestic market.

5. All sale of unprocessed sawtimber resulting from an initial advertisement of sale shall be restricted for primary manufacture in the United States.

6. If the initial advertisement for sale based upon domestic market appraisal does not result in a sale, subsequent advertisements of the sale area may be made without domestic manufactureing restraints.

It is further agreed; the Tribe shall not bid for, purchase, cut, or remove sawtimber from the Reservation or from adjacent public lands.

It is further agreed; the tribe agrees to utilize 30% of annual tribal stumpage revenues for economic development in order to provide: a. Productive employment opportunities, b. Stimulate small business enterprises, c. Generate additional revenues to build a diversified tribal economic base, to promote tribal self-sufficiency, and d. To make a positive contribution to the economy of the greater Willamina-Sheridan area.

Terms of agreement:

1. This agreement shall have no force or effect until the establishment of a Grand Ronde Reservation by Congress.

2. This agreement shall be in full force and effect for a period of 20 years beginning on the date of enactment of a law establishing a Grand Ronde Reservation by Congress, subsequent to Public Law 98–165.

3. This agreement shall not be amended or rescinded by the parties and their successors, for a period of 20 years beginning on the date of enactment of a law establishing a Grand Ronde Reservation by Congress, subsequent to Public Law 98–165.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 19, 1988.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in reference to our May 10, 1988, report which presented our views on H.R. 4143, a bill "To establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes."

The above-referenced report was sent to the Committee in error prior to full review within the Administration. Therefore, the views contained in this report may not represent the views of the Administration on H.R. 4143. Because of this, we request that the report be withdrawn. We will provide the Committee with the views of the Administration as soon as possible.

Sincerely,

PHILIP G. KIKO,
Legislative Counsel.

STATEMENT OF ADMINISTRATION POLICY

JUNE 3, 1988.

H.R. 4143—GRAND RONDE INDIAN RESERVATION

(AuCoin (D) Oregon)

The Administration would not object to the establishment of a reservation for the Confederated Tribes of the Grande Ronde Indian Community however, the Administration opposes enactment of H.R. 4143 because of the bill's unwarranted expense. The legislation would convey to the tribe Federal property valued at $38.7 million.

Moreover, the property conveyances required by H.R. 4143 would result in a loss to the Treasury of $1.3 million annually in Federal timber receipts. Under section 401(c)(2)(D) of the Congressional Budget Act, these foregone receipts would have to be scored as an exercise of spending authority if H.R. 4143 were enacted. This spending authority would exceed the Bipartisan Budget Agreement spending levels and therefore would have to be offset.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that enactment of H.R. 4143 will not result in any changes in existing law.

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